

OCT 22 2003

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON
U.S. COURT OF APPEALS**

CITY OF YAKIMA,

Plaintiff - Appellant,

v.

LEXINGTON INSURANCE COMPANY, a
Delaware corporation; GULF
UNDERWRITERS INSURANCE
COMPANY, a New York corporation;
SPECIALTY SURPLUS INSURANCE
COMPANY, an Arizona corporation,

Defendants - Appellees.

No. 02-35794

D.C. No. CV-01-03080-EFS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Edward F. Shea, District Judge, Presiding

Argued and Submitted October 9, 2003
Seattle, Washington

Before: D.W. NELSON, KOZINSKI, and McKEOWN, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

The pollution exclusion provisions of the insurance policies exclude coverage for the damage claims for which the City of Yakima seeks indemnification and defense costs. See City of Bremerton v. Harbor Ins. Co., 963 P.2d 194, 197 (Wash. Ct. App. 1998). We adopt the careful and considered reasoning of the district court and

AFFIRM.